

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
NEW ENGLAND - REGION I  
ONE CONGRESS STREET  
BOSTON, MA 02114-2023

**STATEMENT OF BASIS**

DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT  
MODIFICATION

NPDES PERMIT NO.: MA0103284

STATE PERMIT NO.:

NAME AND ADDRESS OF PERMITTEE:

**Massachusetts Water Resources Authority (“MWRA”)  
Charlestown Navy yard  
100 First Avenue  
Boston, MA 02129**

NAME AND ADDRESS OF FACILITY WHERE DISCHARGE OCCURS:

**MWRA Publicly Owned Treatment Works (“POTW”)  
Deer Island Treatment Plant  
Deer Island  
Boston, MA 02152**

RECEIVING WATER: **Massachusetts Bay, which is adjacent to Cape Cod Bay (ocean outfall);  
Charles River, Alewife Brook, Boston Inner Harbor, Mystic River, Dorchester Bay (combined  
sewer overflows - “CSOs”)**

WATER QUALITY CLASSIFICATION: **MA Bay, SA; Charles River, Alewife Brook and Mystic  
River (from the Alewife Brook to the Amelia Earhart Dam), B - CSO Variance; Boston Inner  
Harbor, Mystic River (below Earhart Dam) SB<sub>CSO</sub>; Dorchester Bay SB**

**I. Proposed Action, Type of Facility, and Discharge Location**

This action is a proposed modification to the NPDES permit issued to the MWRA on May 20, 1999 and modified on July 10, 2000. This proposed modification includes modifications to the sludge conditions and the combined sewer overflow (CSO) conditions. The permittee owns and operates the Deer Island publicly owned treatment works, which provides secondary treatment to wastewater from 43 communities. The permit authorizes the discharge of treated wastewater from the Deer Island POTW to Massachusetts Bay subject to effluent limitations and other requirements. MWRA also owns and operates several CSO treatment facilities and other CSO outfalls. The permit authorizes these discharges subject to effluent limitations and other requirements.

CSO discharges are a combination of sanitary sewage and storm water runoff which discharge only during significant storm events, when interceptor and/or pump station capacities are exceeded. Estimates of the number of CSO activations and volume discharged in a typical year under recommended plan conditions are shown on Attachment B of the draft permit modification.

## **II. Limitations and Conditions**

This permit modification includes changes to (i) sludge conditions (see EXHIBIT A, attached to the draft permit modification) and (ii) combined sewer overflow (“CSO”) requirements (see EXHIBIT B, attached to the draft permit modification). All other conditions of the existing permit and existing permit modification, including effluent limitations and monitoring requirements, will remain unchanged. The permit modification will become effective upon signature if no comments are received, and 60 days from the date of signature if comments are received.

## **III. Modification Basis**

### **Background**

On May 20, 1999, the U.S. Environmental Protection Agency (“EPA”) and the Massachusetts Department of Environmental Protection (“MADEP”) issued to the Massachusetts Water Resources Authority (“MWRA”) an updated National Pollutant Discharge Elimination System Permit, No. MA0103284 (the “Permit”) to govern discharges from the Deer Island sewage treatment plant to Massachusetts Bay, as well as certain Combined Sewer Overflow (“CSO”) discharges in and around Boston Harbor. The issuance of this Permit continues a fifteen year effort to protect Boston Harbor and Massachusetts Bay. The Permit requires the MWRA to meet extensive toxicity testing, monitoring and effluent limit requirements designed to protect water quality in addition to secondary treatment requirements. The Permit also contains requirements that the MWRA conduct ambient monitoring in Massachusetts Bay (in addition to monitoring its discharges) and that it have a Contingency Plan to address any water quality problems which may develop.

The MWRA filed administrative appeals with the EPA and MADEP from Permit provisions regarding (i) infiltration and inflow (“I/I”) and sanitary sewer overflow (“SSO”) requirements; (ii) water conservation requirements; (iii) a limit on new connections to the MWRA system; and (iv) permit modification requirements. The MWRA Advisory Board filed appeals in support of the MWRA’s appeals. The following parties also filed appeals to the permit: Charles River Watershed Association, Fore River Watershed Association, Barnstable County Commissioners and the Bays Legal Fund Board of Trustees, Stop the Outfall Pipe, Inc. - Mary E. Loebig and the members of the Board of Directors, and Ms. Ingeborg Uhlir. Most of these appeals were made out of concern that the permit provisions not be made less stringent and were in opposition to the MWRA’s appeals.

After extensive negotiations, the EPA and MADEP reached agreement with all of the above parties. Pursuant to that agreement, the EPA and MADEP proposed certain changes to the Permit, as set forth in the first proposed major Permit Modification that became effective on August 9, 2000.

(1) Sludge Conditions Modification Basis:

In 1993, through a Stipulation entered in the Boston Harbor Case (U.S. v. M.D.C., et al., No. 85-0489 (D. Mass)), MWRA accepted responsibility for residuals reporting requirements under a Second Long-Term Residuals Management Scheduling Order dated October 8, 1993 and amended on December 3, 1993. The 1993 Order required the MWRA to: (1) review and update its Emergency Preparedness Plan (“EPP”) for backup sludge disposal capacity, (2) submit an annual report to EPA and the MADEP updating the status of its residual management program and backup plan by April 30<sup>th</sup>, (3) include in the annual report the quantities of sludge (in dry and wet tons) produced, marketed, and landfilled including the identity of the landfill, and (4) include in the annual report a confirmation that the permittee has maintained and completed all of the appropriate updates to the EPP list of potentially available commercial landfills and transporters, the landfill construction contract bidding documents, and the landfill design and plan of operation documents.

Following issuance of the Permit, the Court removed these requirements from the MWRA’s ongoing reporting obligations to the Court. This “new information” from the Court provides a basis for modification of the Permit in accordance with 40 C.F.R. § 122.62(a). The proposed modification would add these reporting requirements to the Permit.

(2) Combined Sewer Overflow Requirements Modification Basis:

On February 3, 1998, EPA and the MADEP released the MWRA draft National Pollutant Discharge Elimination System (“NPDES”) permit, number MA0103284, for public notice and comment. EPA approved the State’s proposed revisions to the MA Water Quality Standards (WQS) on February 27, 1998. The CSO conditions in the current permit do not, therefore, reflect the currently approved WQS.

The change in water quality standards provides a basis for modification of the permit in accordance with 40 C.F.R. § 122.62(a). This permit modification reflects the current WQS pertaining to CSO discharges. The draft permit modification establishes numerical limitations and monitoring requirements for the MWRA CSOs based on current state water quality standards, and establishes discharge frequency and volume requirements during a typical year which will be achieved upon completion of the CSO abatement facilities recommended in the Final CSO Facilities Plan. EPA and the MADEP are now taking public comment on the proposed permit changes.

General Requirements

Under Section 301 (b)(1)(A) of the Clean Water Act, CSOs are subject to technology-based effluent limitations and are not subject to secondary treatment regulations applicable to publicly owned treatment works (Montgomery Environmental Coalition vs. Costle, 646F.2d 568 (D.C. Cir 1980)). Under Section 301(b)(1)(C) of the Clean Water Act (CWA), CSOs are also subject to effluent limitations based on water quality standards.

### Technology-based Requirements

EPA's National CSO control policy has established technology-based effluent limitations for CSOs using best professional judgement. The policy establishes the minimum technology-based requirements as implementation of nine minimum controls (NMCs). The nine minimum controls are:

1. Proper operation and regular maintenance programs for the sewer system and the CSOs;
2. Maximum use of the collection system for storage;
3. Review and modification of pretreatment requirements to assure CSO impacts are minimized;
4. Maximization of flow to the POTW for treatment;
5. Prohibition of CSOs during dry weather;
6. Control of solid and floatable material in CSOs;
7. Pollution prevention;
8. Public notification to ensure that the public receives adequate notification of CSO occurrences and CSO impacts; and
9. Monitoring to effectively characterize CSO impacts and the efficacy of CSO controls.

The National CSO Control Policy required CSO communities to submit documentation of its implementations of the nine minimum controls by January 1, 1997. The Massachusetts Water Resources Authority submitted its documentation on December 31, 1996. The existing permit requires MWRA to continue to implement its nine minimum controls program in accordance with its documentation and to also perform EPA New England Region's minimum implementation levels. These requirements have been modified in the draft permit modification. The changes include;

- a. The first annual CSO report submitted in accordance with the permit include a public notification plan to describe the measures actively being taken to meet the ninth minimum control (NMC) requirement listed under Part I.16.e.i.(9) of the permit, and an evaluation of further measures to enhance the public notification program, including use of web postings with CSO information. (see Part I.16.h.v. of the draft permit modification). The purpose of this requirement is to ensure that the public is kept informed of CSO discharges and on the on-going CSO control measures that are implemented by the permittee.
- b. That within 3 months of the effective date of the permit, the permittee shall submit a CSO monitoring plan which describes the methods by which the permittee will quantify CSO activations and volumes. The plan shall be implemented following approval by EPA and MADEP. The draft modification further requires that the permittee report CSO activation frequency and volumes for its CSO discharges semi-annually, and that it provide an annual report on CSO activation frequency and volumes for member community CSOs (see Part I.16.g.vii). The purpose of these requirements is to ensure that the CSO monitoring plan provides an appropriate amount of accuracy, that results are reported on a more routine basis, and that MWRA and its member communities reconcile any differences between estimates of the member community discharges.

### Water Quality Based Requirements

The Massachusetts Water Quality Standards (WQS) establish water quality classifications for all waters of the Commonwealth. Water quality uses, and criteria to support those uses, are established for each classification. The water quality classifications are A, B, C (inland water classes) and SA, SB and SC (coastal and marine classes) and may include Bcso and SBcso subcategory use restrictions.

Class A and SA waters are designated as excellent habitat for fish and aquatic life; and suitable for primary and secondary contact recreation; Class A waters are designated as a source of public water supply; Class SA waters, in approved areas, are suitable for shellfish harvesting without depuration.

Class B and SB waters are designated as a habitat for fish, other aquatic life, and for primary and secondary contact recreation; Class B waters, where designated shall be suitable as a source of public water supply with appropriate treatment. Class SB waters, in approved areas shall be suitable for shellfishing with depuration.

The Massachusetts Water Quality Standards do not allow the discharge of CSO, either treated or untreated, into a receiving water that is designated as A, B, SA, or SB.

The WQS may also assign restrictions to a receiving water, which establish a subcategory of use assigned to a receiving water segment. One of the subcategories which may be established is for CSO-impacted segments. The permitting authority may allow overflows to waters identified as impacted by CSOs provided that;

- a. an approved Final CSO Facilities Plan under 310 CMR 41.00 provides justification for the overflows;
- b. the Department finds through a use attainability analysis, and EPA concurs, that achieving a greater level of CSO control is not feasible for one of the reasons specified at 314 CMR 4.03(4);
- c. existing uses and the level of water quality necessary to protect the existing uses shall be maintained and protected; and
- d. public notice is provided through procedures for permit issuance or facility planning under M.G.L. c. 21 §§ 26 through 53 and regulations promulgated pursuant to M.G.L. c. 30A.

Conversely, if the Final CSO Facilities Plan shows that elimination of CSO discharges is feasible, through relocation or sewer separation, no CSO discharges are authorized into that receiving water and the CSO impacted subcategory is removed.

The state may also, with EPA concurrence, establish a water quality standards variance. A variance is a short-term modification of the standards, designed to obtain the information necessary to determine the appropriate water quality standard and level of CSO control for the segment. Variances are discharger and pollutant specific, are time-limited, and do not forego the currently designated use. At the end of the variance, MADEP will make a final Administrative Determination, based on a use attainability analysis, regarding the appropriate level of CSO control and final water quality determinations, in accordance with National and State CSO Policy.

#### MWRA Final CSO Facilities Plan /Water Quality Standards

In 1987, through a Stipulation entered in the Boston Harbor Case (U.S. v. M.D.C., et al., No. 85-0489 (D. Mass)), MWRA accepted responsibility for developing a control plan to address CSO discharges from all CSOs hydraulically connected to the MWRA sewer system, including outfalls owned by the member communities. Under a Court-ordered schedule, MWRA developed a CSO Conceptual Control Plan in 1994, recommending more than 25 site-specific CSO projects located in Boston, Cambridge, Somerville and Chelsea. The CSO Conceptual Control Plan was later refined; and, on July 31, 1997, the MWRA filed a Final Environmental Impact Report /Final CSO Facilities Plan (FEIR) to the Massachusetts

Environmental Policy Act (MEPA) office. Based on a review of this document and the comments received, a MEPA certificate for the project was issued on October 30, 1997.

In 1996, design and construction milestones for the 25 projects in the Final CSO Facilities Plan were added to the Federal Court Schedule, requiring implementation of the projects from 1996 to 2008. MWRA is directly responsible for implementation of many of the projects and has negotiated agreements with three CSO communities for implementation of certain projects affecting the community systems. The Final CSO Facilities Plan evaluated and selected abatement alternatives for each CSO and was conducted in accordance with EPA's National CSO Control Policy.

For those CSOs which MWRA did not believe could be eliminated, the plan included information to support a Use Attainability Analysis (UAA) pursuant to 40 CFR Section 131.10 (g). A UAA is an evaluation conducted by the state which supports removal of a National Goal Use based on criteria such as costs and impacts associated with attaining that use. The state submitted its final administrative determinations, including a UAA, to EPA for approval on December 31, 1997. On February 27, 1998, EPA approved the state's changes to water quality standards which included removal of CSO-impacted designations for the Neponset River, North Dorchester Bay, South Dorchester Bay, and Constitution Beach; a SB<sub>CSO</sub> designation for Boston Inner Harbor; a B<sub>CSO</sub> designation for the Muddy River; and a tentative determination for the issuance of a variance for the Lower Charles River, the Alewife Brook, and the Upper Mystic River.

For receiving waters designated SB<sub>CSO</sub> (e.g. Boston Inner Harbor), the water quality standard is achieved when the discharger completes the CSO abatement facilities in the approved Final CSO Facilities Plan, and achieves the performance goals and water quality results defined in the Final CSO Facilities Plan. This level of control, therefore, becomes the level of control necessary to attain the standard and becomes the basis for the permittee's requirements and discharge limits for each outfall to remain active in the receiving water.

For receiving waters designated SB (e.g. Dorchester Bay), no CSO discharges are authorized under the Massachusetts Water Quality Standards. Since the Final CSO Facilities Plan demonstrated that the elimination of CSO discharges at outfalls MWR209 and MWR211 could be achieved through sewer separation, the water quality classification for Dorchester Bay is SB. However, outfalls MWR209 and MWR211 will continue to discharge into Dorchester Bay until the CSO abatement projects recommended in the approved Final CSO Facilities Plan and mandated by the Federal Court Order are implemented. Therefore, the permittee and EPA/DEP will be entering into an Administrative Order that provides interim effluent limits for and authorizes discharges from the Fox Point (MWR209) and Commercial Point (MWR211) CSO facilities.

For receiving waters that have been granted a water quality standards variance, such as the Lower Charles River, Alewife Brook, and the Upper Mystic River, the recommended abatement facilities, level of performance, and water quality benefits from the Final CSO Facilities Plan are established as the minimum requirements to meet water quality standards and are the basis for the permittee's requirements for each outfall. The conditions of the CSO Variances issued in the Lower Charles and Alewife Brook/Upper Mystic River Basins require the MWRA and relevant CSO communities to move forward with the recommended plan, further define storm water and CSO pollutant loads, and re-evaluate CSO controls. EPA and the MADEP will review the additional information developed during the period of the CSO Variance, and after opportunity for public comment, determine whether a higher level of CSO control is feasible. These conditions are included as conditions of the draft permit modification. Where MWRA recommends CSO abatement facilities in addition to or significantly varying from the 1997 Plan,

another filing must also be made to the MEPA office to allow for public environmental review of the changes.

Final Variance Conditions for the Charles River became effective on October 1, 1998. On October 22, 2001, MADEP extended the timeframe for the Charles River CSO Variance to October 1, 2002. The MADEP subsequently extended the time frame of the Variance again so that it remains in effect until October 1, 2003.

Final Variance conditions for the Alewife Brook/Upper Mystic River sub-basin were issued on March 5, 1999 and were subsequently extended to September 5, 2003.

#### Proposed Limits for MWRA CSOs

The draft permit modification establishes discharge frequency and volume limitations based on expected performance during a typical year following completion of the recommended plan. These limits are established for each MWRA CSO Treatment Facility and MWRA CSO discharging to a B<sub>CSO</sub>, SB<sub>CSO</sub>, or B-Variance receiving water following completion of the CSO abatement facilities recommended by the Final CSO Facilities Plan. In addition, for CSO Treatment Facilities, the permit also contains water quality based effluent limitations for fecal coliform bacteria, total residual chlorine, pH, testing requirements for whole effluent toxicity and monitoring requirements for total suspended solids, biochemical oxygen demand, flow, and precipitation.

Since the limitations on discharge activation frequency and volume are based on a typical year of precipitation, compliance with these limits cannot be fully determined without comparing the precipitation for that year with the typical year used in the Final CSO Facilities Plan, and a determination is made, based on the actual precipitation events, whether the CSO activation and frequency were in accordance with the performance expected in the Final CSO Facilities Plan. Therefore, the draft permit modification requires the permittee to provide an annual report which provides discharge frequency and volume for each CSO listed in Attachment B of the draft permit modification during the previous year, and the precipitation for that year. The draft permit modification also requires the annual report to include an analysis of whether the activation frequency and discharge volume for all MWRA CSOs listed in Attachments B and B1 of the draft permit modification are consistent with the expected level of performance for the year predicted documented in the 1994 Final CSO Conceptual Plan and System Master Plan, and whether the performance is reasonable given the CSO abatement which has been accomplished. Until the permittee completes the CSO abatement projects recommended in the approved Final CSO Facilities Plan and mandated by the Court Order, it cannot be expected to achieve the final limitations in the permit. Any necessary interim effluent limitations or conditions for MWRA CSOs will be included in an Administrative Order. (See also: Part I.16.h. of the draft permit.)

Consistent with the 1997 Final CSO Facilities Plan, MWRA will be required to periodically reassess and optimize and enhance its CSO Control Plan based upon new or updated information as may be received during future CSO implementation activities during the Project design phase. If, upon MWRA's request, EPA and/or the MADEP determine that revision(s) to one or more CSO abatement projects is appropriate, EPA and the MADEP may propose revision of those projects. In general, any proposed revision that would result in a substantive increase in the number of CSO activations and/or result in a significant increase in the volume of CSO discharge would require a formal public review and comment process associated with the change to the CSO Facilities Plan, a change to the MA Water Quality Standards, and a modification of the NPDES Permit.

#### Relationship with CSO Communities

EPA and the MADEP are in the process of reissuing NPDES permits to MWRA's CSO communities under the existing water quality standards. Communities within the MWRA system which own and operate CSOs include the Boston Water and Sewer Commission and the Cities of Cambridge, Somerville, and Chelsea. EPA and the MADEP are proposing to include the following requirements in the MWRA draft permit modification: (1) generate and submit annual CSO activation frequency and volume estimates for CSO member communities' CSOs using the MWRA sewer system model to the CSO member communities, EPA, and MADEP (2) operate and maintain its sewer system consistent with the 1997 Final CSO Facilities Plan, as amended, and (3) submit all proposed changes to its sewer system that may increase activation frequency and volume of CSO communities outfalls to the affected community at least ninety (90) days prior to implementation of the change. These three proposed requirements are also being proposed for the MWRA member communities' draft permits.

#### Effluent Limitations by Receiving Water

- Dorchester Bay

Dorchester Bay is an SB water body under the Massachusetts Water Quality Standards. No discharge of CSO is authorized.

The Massachusetts Water Resources Authority currently owns and operates the Fox Point (MWR209) and Commercial Point (MWR 211) CSO Treatment Facilities. CSO outfalls MWR209 and MWR211 discharge through Boston Water and Sewer Commission outfalls BOS089 and BOS090 respectively.

These facilities provide screening, chlorination and dechlorination of CSO flows prior to discharges to Dorchester Bay. The MWRA, in coordination with the Boston Water and Sewer Commission and in accordance with the approved Final CSO Facilities Plan, Federal Court Order, and Water Quality Standards is proceeding with a sewer separation program in the sewersheds tributary to these facilities which will ultimately eliminate CSO discharges through these facilities. These facilities are therefore considered interim facilities. Interim limits for these facilities shall be imposed through an Administrative Order.

- Boston Inner Harbor

Boston Inner Harbor is an SB<sub>CSO</sub> water body under the Massachusetts Water Quality Standards. The discharge of CSO is authorized in accordance with the Final CSO Facilities Plan.



Attachment B of the draft permit modification shows which MWRA CSOs will remain following the implementation of the approved Final CSO Facilities Plan, and the expected discharge frequency and volume in a typical year under recommended plan conditions in the approved Final CSO Facilities Plan. All of the MWRA discharges into Boston Inner Harbor are from existing or proposed CSO treatment facilities. The existing CSO treatment facilities are the Prison Point Treatment Facility (MWR203) and the Somerville Marginal Treatment Facility (MWR 205). New CSO facilities, which are to be constructed in accordance with the Federal Court Order are the Union Park Treatment Facility (MWR215), which will discharge into Fort Point Channel, and the Reserved Channel Treatment Facility (MWR213), which will discharge into Reserved Channel. The Federal Court Order requires that the Union Park Treatment Facility be completed by March 2005, and that the Reserved Channel Treatment Facility be completed by March 2003. However, MWRA has filed a Notice of Project Change for the Reserved Channel Project with MEPA and has indicated that the March 2003 completion date is no longer achievable. If the MWRA recommends a plan for Reserved Channel that does not include a CSO treatment facility, and if EPA and the MADEP approves the MWRA's recommendation, then the Reserve Channel outfall (MWR213) will not be constructed.

The draft permit modification includes effluent limitations for all of these facilities, although the authorization to discharge from the Union Park and Reserved Channel Facilities does not take effect until MWRA has completed construction of the facilities. The effluent limitations include: (1) water quality-based limitations on fecal coliform bacteria, total chlorine residual, pH, and testing requirements for whole effluent toxicity, (2) monitoring requirements for total suspended solids, biochemical oxygen demand, flow, and precipitation, and (3) establishes the discharge volumes and frequency expected after completion of the abatement projects recommended in the Final CSO Facilities Plan as effluent limitations for a typical year under recommended planned conditions. (The water quality-based limitations and monitoring requirements proposed in the draft permit modification are the same requirements set forth in the final permit issued to the MWRA on May 20, 1999. See also: Attachment U of the permit modification - Total Residual Chlorine Limitation Sample Calculation for Combined Sewer Overflows (CSOs), and the Massachusetts Water Quality Standards.)

- Charles River

The Charles River is a B-CSO Variance water body under the Massachusetts Water Quality Standards. The discharge of CSO is authorized in accordance with the Final CSO Facilities Plan. Similar to the B<sub>CSO</sub> receiving waters, the discharge of CSOs into the Lower Charles River will be permitted in accordance with the approved Final CSO Facilities Plan. There will be five MWRA untreated CSOs and one MWRA CSO treatment facility discharging to the Charles River following the implementation of the approved Final CSO Facilities Plan. Attachment B of the draft permit modification shows which MWRA CSOs will remain following the implementation of the approved Final CSO Facilities Plan, the expected discharge frequency in a typical year under recommended plan conditions, and the expected volume to be discharge in a typical year under recommended plan conditions. These discharge volumes and frequencies are established in the draft permit modification as effluent limitations for a typical year under recommended plan conditions.

However, since the variance will expire on October 1, 2002 and may be extended until October 1, 2003, it is expected that a final determination will be made regarding water quality standards within the term of the permit. Therefore, the draft permit contains a reopener clause which specifies that the effluent limitations and other conditions for the Charles River CSOs may be modified subsequent to the effective date of the changes to water quality standards for this receiving water.

- Alewife Brook/Upper Mystic River

A B-CSO Variance was also issued by the MADEP for the Alewife Brook/Upper Mystic River watershed. The discharge of CSO is authorized in accordance with the Final CSO Facilities Plan and the Variance. The discharge of CSOs into Alewife Brook and the Upper Mystic River will be permitted in accordance with the April 2001 MWRA Notice of Project Change as required by the Variance. There will be one MWRA untreated CSO and one MWRA CSO treatment facility discharging to the Upper Mystic River following the implementation of the facilities recommended in the Notice of Project Change. Attachment B of the draft permit modification shows which MWRA CSOs will remain following the implementation of the facilities recommended in the Notice of Project Change, the expected discharge frequency in a typical year under recommended plan conditions, and the expected volume to be discharge in a typical year under recommended plan conditions. These discharge volumes and frequencies are established in the draft permit modification as effluent limitations for a typical year under recommended plan conditions.

However, since the variance will expire on September 5, 2003, it is expected that a final determination will be made regarding water quality standards within the term of the permit. Therefore, the draft permit contains a reopener clause which specifies that the effluent limitations and other conditions for Alewife Brook and the Upper Mystic River CSOs may be modified subsequent to the effective date of the changes to water quality standards for this receiving water.

### Training Plan

EPA and the MADEP are proposing to include a requirement in the draft permit modification that the MWRA develop a plan for providing annual training to its sewer system operation staff, and to make the plan available at the MWRA offices at the Charlestown Navy Yard for examination by EPA, MADEP, and the public. The primary purpose of the training is to ensure the implementation of proper operation, maintenance and safety measures (including emergency response) necessary to maximize sewer system performance since these measures have a vital role in reducing backup flow, and in reducing water quality impacts of CSO discharges into receiving waters. A sewer system “backup” is defined as wastewater entering a home or building through the existing plumbing. A backup can occur during extreme storm events when storm water inflow overwhelms a sewer system causing sewer surcharging.

## **V. State Certification Requirements**

EPA may not issue a permit modification unless the Massachusetts Department of Environmental Protection certifies that the effluent limitations contained in the permit are stringent enough to assure that the discharge will not cause the receiving water to violate State Water Quality Standards. The staff of the Massachusetts Department of Environmental Protection has reviewed the draft permit and advised EPA that the limitations are adequate to protect water quality. EPA has requested permit certification by the State pursuant to 40 CFR 124.53 and expects that the draft permit will be certified.

## **VI. Public Comment Period and Procedures for Final Decision**

All persons, including applicants, who believe any condition of the draft permit is inappropriate must raise all issues and submit all available arguments and all supporting material for their arguments in full by the close of the public comment period, to the U.S. EPA, MA NPDES Unit, Office of Ecosystem Protection (CPE), 1 Congress Street, Suite 1100, Boston, Massachusetts 02114-2023. Any person, prior to such date, may submit a request in writing for a public hearing to consider the draft permit to EPA and the State Agency. Such requests shall state the nature of the issues proposed to be raised in the hearing. A public hearing may be held after at least thirty days public notice whenever the Regional Administrator finds that response to this notice indicates significant public interest. In reaching a final decision on the draft permit the Regional Administrator will respond to all significant comments and make these responses available to the public at EPA's Boston office.

Following the close of the comment period, and after a public hearing, if such hearing is held, the Regional Administrator will issue a final permit decision and forward a copy of the final decision to the applicant and each person who has submitted written comments or requested notice.

## **VII. EPA Contact**

Additional information concerning the draft permit may be obtained between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays from:

Janet Labonte-Deshais  
Chemical/Environmental Engineer  
Massachusetts NPDES Unit (CPE)  
1 Congress Street - Suite 1100  
Boston, MA 02114-2023  
Telephone: (617) 918-1667 FAX: (508) 755-9253

**1/13/03**

Linda M. Murphy, Director  
Office of Ecosystem Protection  
U.S. Environmental Protection Agency